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How advisors can reduce estate planning conflicts in 4 steps

By Rob Burgess
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Whether it's a reluctance to discuss death or hesitation to ask about inheritance, a lack of open communication among family members presents one of the most significant threats to effective estate planning.

Many clients hesitate to share their estate plans with family, sometimes even withholding details from their spouse, said Mike Anderson, a financial planner with AdviceOnly in San Diego.

"This secrecy is one of the biggest pitfalls in estate planning," he said.

But advisors can facilitate improved connection and communication between clients' family members, even serving as something of scapegoat to shift blame for forcing uncomfortable conversations. Jirayr Kembikian, co-founder and managing director of Citrine Capital in San Francisco, said he encourages clients to "throw us under the bus."

"These conversations can be emotional and difficult, so we often recommend clients deflect the burden by saying, 'Our advisor asked if we've done any estate planning and if our documents are up to date,'" he said.

Tyler Abney, managing partner at Tidemark Financial Partners in San Diego, said one family he worked with came to him after the unexpected passing of their father.

"There was no will, no trust and no clear direction," he said. "The siblings, still grieving, quickly found themselves in conflict over decisions and assumptions over what their father 'would have wanted.' It was a powerful reminder that even the strongest family bonds can be tested when there's no clear plan in place or shared understanding."

Here are steps advisors can take to avoid communication breakdowns and reduce conflict in estate planning.

Establish goals and expectations ahead of meetings

To make a family meeting a success, ask clients to set their goals ahead of time and decide who they would like to be involved with, said Jon Robertson, president, director of financial planning and partner at Abacus Planning Group in Columbia, South Carolina. The ground rules he sets for these types of meetings include: Be respectful in words, body language and action; listen; be patient; own your views as your own; be willing to edit what you say; tolerate the tension; and avoid indirect communication.

It's also essential for the advisor to outline the consequences if a client fails to form an estate plan, said Reverend Dr. Nicole B. Simpson, the founder of Harvest Wealth Financial in New York City.

"Helping a family identify the challenges inaction will present oftentimes helps families focus on true legacy planning," she said.

Have clients write personal letters

Sometimes verbal communication won't cut it. To express thoughts clearly, written letters addressed directly to family members can be effective. Melody W. Townsend, president and senior financial advisor at Townsend Financial Planning in Mount Sterling, Kentucky, said she has written "open if I should die" letters to both of her children and her husband. She also created a "letter of instructions" for her husband, which includes who to call, how to access her computer passwords "and a very specific note that he is not to dress me in pastel pink for the funeral."

"So many parents tell us that their greatest hope is for their children to stay close and not fight over their things," she said. "The best way to help ensure that happens? Document, document and document some more."

Personal letters can not only convey a client's wishes after they're no longer able to, but they also become valuable mementos. John Clardy, managing partner and financial advisor of Continuity Wealth Group in Washington, D.C., said children and grandchildren truly value these letters.

"They create a sense of belonging and connection to something larger than themselves," he said.

Ask about the parents' plans

Understanding whether a client stands to inherit assets from their parents is important — but often a difficult conversation not just for the advisor with their client, but for the client with their parents. Ryan Frailich, a financial planner with Deliberate Finances in New Orleans, said he has found that clients in their 30s and 40s can use working on their own estate plans as a springboard to opening this conversation with their parents.

"I even write an email to my clients that explicitly asks some questions about their parents' finances, and notes that getting more information about what they can expect as their parents age will have a major impact on their lives," he said.

Jay Zigmont, CEO and founder of Childfree Wealth in Mount Juliet, Tennessee, said his firm includes a step in its financial planning process they call "a plan for parents." The first step is gathering info to allow clients to understand the situation and set boundaries. He recommended the application NOK Box as a way to gather everything.

"What we tend to find is that your parents' planning or lack thereof may have more of an impact on your financial planning than your own planning," he said.

Zigmont said it is often the first time clients have had a real conversation with their parents about these topics.

"All too often their parents do not have plans but still expect our clients to care for them in their old age," he said. "We often hear, 'You don't have kids, so you can take care of Mom.' This is particularly acute in our soloist clients, single with no kids. … If we don't get to do the planning in advance, we tend to help when emergencies hit their parents. I'll never forget the call with a client who was hiding in her mom's bathroom in tears working on a plan for her care after she broke her hip. It is much harder to respond than to plan in advance."

Bring in outside help

Preventing conflict before it starts often begins by separating the personal from business. Robert Steele, trusts and estates attorney at Schwartz Sladkus Reich Greenberg Atlas in New York City, said he advises against naming family members as executors, especially children or spouses, recommending a neutral party instead.

"A neutral, experienced executor navigates the legal complexities efficiently, leading to a smoother probate process," he said. "By appointing a neutral party, you allow your family to grieve without the added burden of financial duties, significantly reducing family strain. A neutral executor ensures your final requests are fulfilled accurately, free from the potential conflicts that can arise within a grieving family."

Hiring outside experts usually starts by involving a third-party estate attorney early in the process, encouraging periodic family meetings and documenting the intent behind major estate decisions.

"Silence creates space for assumptions and hurt feelings," said Jordan Gilberti, founder of Sage Wealth Group in New York City. "Communication, even if it's uncomfortable, builds trust and clarity."

William "Bill" London, partner at Kimura London & White in Irvine, California, focuses mainly on estate planning and family law. He said he always emphasizes the need to create a clear, legally sufficient plan while the client is healthy enough to communicate what they desire.

"Involving the right professionals — lawyers, financial planners and even therapists at times — can make it easier to handle delicate dynamics," he said.

Kelsey Simasko, an elder law and estate planning attorney at Simasko Law in Mount Clements, Michigan, said this outside legal help does not supplant the work of the advisor.

"Ambiguity and hurt feelings cause family fighting," she said. "As an attorney, I can't do anything about hurt feelings, but I can make sure your plan uses plain language, specific names and what should happen if someone pre-deceases another."

Emotional support may also go a long way to increasing estate planning harmony, said Larry Schooler, professor of conflict resolution at the University of Texas at Austin. A trusted neutral third-party facilitator like a therapist, attorney or mediator can help create and maintain a safe space for honest and respectful dialogue, he said.

"It can be hard even to broach this topic without support," he said. "We often can't predict how the other person will react."